

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHN BENSON, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER
(94 MED 152, 94 MED 191)

The parties to this proceeding for the purpose of Wis. Stats. sec. 227.53 are:

John Benson, M.D.
P.O. Box 141
Blue Hill, ME 04614

State of Wisconsin Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue, Room 183
P.O. Box 8935
Madison, WI 53708

The parties in this matter, John Benson, M.D., Respondent, personally and through his attorney, Kenneth Lehman, and Pamela M. Stach, Attorney for Complainant, agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Medical Examining Board. The Board has reviewed the Stipulation and considers it acceptable. Accordingly, the Wisconsin Medical Examining Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. John Benson, P.O. Box 141, Blue Hill, Maine 04614, is duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin. His license bears number 29702 and was granted on August 25, 1988.
2. Respondent's date of birth is October 5, 1943.
3. At all times relevant hereto Respondent was a physician duly licensed to practice medicine and surgery in the States of Minnesota, Pennsylvania, and Colorado.
4. On November 14, 1992, Respondent's license to practice medicine and surgery in the State of Minnesota was limited based upon the terms and conditions contained in the Order attached hereto as Exhibit A.

5. Subsequent to the action taken by the Minnesota Board of Medical Practice, the licensing authorities in the States of Pennsylvania and Colorado accepted the surrender of Respondent's licenses to practice medicine and surgery in each of the respective states.

6. Respondent subsequently had his license to practice medicine in the State of Maine restricted based upon the Minnesota order.

7. On December 14, 1994, the Maine Board of Licensure lifted the restrictions and restored in full Respondent's license to practice medicine in that state. (See attached Exhibit B.)

8. By letter dated June 17, 1995, the Minnesota State Board of Medical Practice advised that Respondent had successfully completed all terms of the limited license referred to in paragraph four above and Respondent's license to practice medicine and surgery in that state was restored in full. (See Exhibit C.)

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to Wis. Stats. sec. 448.02.

2. Having one's license to practice medicine and surgery limited by another licensing authority constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code Ch. MED 10.02(2)(q).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation executed by the parties hereto is accepted by the Board.

IT IS FURTHER ORDERED that based upon the successful completion of the terms and conditions placed upon Respondent's license to practice medicine in the States of Minnesota and Maine and the full reinstatement of Respondent's licenses in those respective states, the Wisconsin Medical Examining Board determines that no further discipline is warranted.

Dated at Madison, Wisconsin this 27th day of ~~August~~ September, 1995.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

by W R Schwartz MD
W R. Schwartz, M.D.
Secretary

WRS:PS:lmf
ATY-BLG1527



MINNESOTA BOARD OF MEDICAL PRACTICE

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538
MN Relay Service for Hearing Impaired (612) 297-5353 or (800) 627-3529

CERTIFICATION OF DISCIPLINARY ACTIONS

ORDER DATED May 14, 1994

IN THE MATTER OF: John Michael Benson, M.D.

CITY AND STATE OF: Bar Harbor, ME

I, H. Leonard Boche, Executive Director of the Minnesota Board of Medical Practice, Do hereby certify that the attached Board Order is a copy of the original official record on file in the office of the Minnesota Board of Medical Practice. As Executive Director, I am the official custodian of such documents and I have personally compared the attached copy with the original and find it to be a true and correct copy thereof.

H. Leonard Boche,
Executive Director
Minnesota Board of Medical Practice

(S E A L)

Exhibit A

STATE OF MINNESOTA
BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
John M. Benson, MD

Date of Birth: 10-5-43
License Number: 23,160

STIPULATION
AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between John M. Benson, MD (hereinafter "Respondent"), and the Minnesota Board of Medical Practice (hereinafter "Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota;

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Respondent served as the chairman of the Department of Radiology at Park Nicollet Medical Center. Beginning in 1987, Respondent submitted a list of contract physicians to the Radiology Department. These physicians were to supplement the regular radiology staff. Respondent's list included physicians who had not provided services to Park Nicollet Medical Center and/or contained an inflated number of hours for physicians who had actually provided services;

b. In approximately April 1987, Respondent set up a business called RadTemps with a separate bank account. During 1987 and 1988, Respondent submitted bills for 4,473 hours on behalf of the doctors on the list which were for services not actually performed. Respondent deposited into the RadTemps account

the checks he had intercepted, which had been issued as a result of the fraudulent bills he submitted;

c. From April 15, 1987, through April 22, 1988, Respondent received and cashed checks amounting to \$226,640 which were made out to physicians who had not provided services or for inflated hours;

d. On May 9, 1988, when Respondent was confronted about an apparent discrepancy between the number of hours billed for contract physicians and the number of hours actually worked by contract physicians, Respondent admitted that he had taken the money for his own use, that he had personal loans which he was unable to repay, and that he had trouble at home related to the financial problems;

e. After Respondent's embezzlement of funds was discovered, a review of Respondent's job performance over the several months indicated his work had deteriorated inasmuch as he had not discussed departmental problems with department heads and had not carried through with quality assurance projects;

f. An evaluation of Respondent, including an initial clinical interview, psychological testing, MMPI, Millon Inventory, Shipley-Hartford Scale, and Adult Sentence Completion, indicated that Respondent's misappropriating of funds may have been a result of psychological problems.

3. The Board views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(k), (l), and (q) (1990) and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify disciplinary action;

4. Upon this stipulation and all of the files, records, and proceedings herein and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order conditioning and

limiting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Within two years from the issuance of this Stipulation and Order, Respondent shall complete 1,500 hours of pro bono community service. The community service need not be in the medical field;

b. Respondent must meet with a designated Board member or staff person of the Board on a quarterly basis. It shall be Respondent's obligation to contact the designated Board member or staff person to arrange each of the meetings. The purpose of such meetings shall be to supervise and review Respondent's progress under the terms of this Stipulation and Order, including monitoring the type and completion of pro bono work performed by Respondent in fulfillment of this Order. It shall be within the discretion of the designated Board member or staff person to decide whether to accept work performed prior to approval of this Order. Should Respondent enter into an agreement with the New Jersey Board of Medical Examiners (hereinafter "New Jersey Board") which also orders the completion of pro bono work, and the chair of the Complaint Review Committee finds the pro bono requirements of the New Jersey Order equivalent to the pro bono requirements of this Order, then the chair may authorize Respondent to meet with the New Jersey Board to monitor and approve the pro bono work in lieu of quarterly meetings with a designated Board member or staff person in Minnesota;

c. Respondent shall pay a civil penalty of \$2,000 to cover the costs of the Board's investigation.

5. Within ten days of the date of this order, Respondent shall provide the Board with a list of all hospitals at which Respondent currently has medical privileges. The information shall be sent to H. Leonard Boche, Board of Medical Practice, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114;

6. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Respondent to practice medicine and surgery in the State of Minnesota shall be suspended immediately upon written notice by the Board to Respondent, such a suspension to remain in full force and effect until Respondent petitions the Board to terminate the suspension after a hearing. Nothing contained herein shall prevent the Board from revoking or suspending Respondent's license to practice medicine and surgery in the State of Minnesota after any such hearing;

7. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto;

8. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter and has been represented by Marcy S. Wallace;

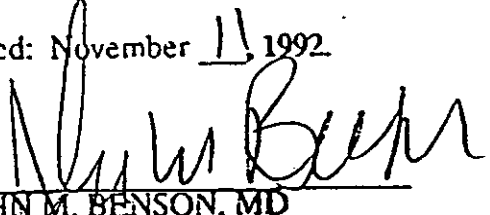
9. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein;

10. Respondent hereby acknowledges that he has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.


11. Upon approval of the Stipulation and Order, Respondent shall provide the Board with the addresses and telephone numbers of Respondent's residence and work site.

Within seven (7) days of any change, Respondent shall provide the Board with any new address or telephone number.

Dated: November 11, 1992


JOHN M. BENSON, MD
Respondent

1467 Silo Road
Yardley, Pennsylvania 19067


MARCY S. WALLACE
Attorney for Respondent

MCNUITY & WALLACE
Suite 300
310 Cedar
St. Paul, Minnesota 55101-1118
Telephone: (612) 293-9194


AUDREY KAISER MANKA
Attorney for Board

500 Capitol Office Building
525 Park Street
St. Paul, Minnesota 55103
Telephone: (612) 297-2040

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 14 day of Nov, 1992.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 

AFFIDAVIT OF SERVICE BY MAIL

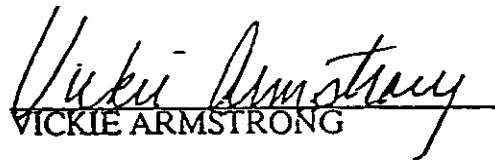
RE: IN THE MATTER OF THE MEDICAL LICENSE OF JOHN M. BENSON, MD

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss.


Vickie Armstrong, being first duly sworn, deposes and says:

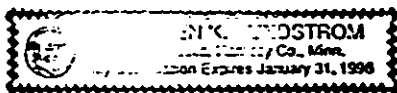
That at the City of St. Paul, County of Ramsey and State of Minnesota, on the 16th day of November, 1992, she served the attached STIPULATION AND ORDER by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Marcy Wallace, Esq.
McNULTY & WALLACE
Suite 300
310 Cedar Street
St. Paul, Minnesota 55101-1118


VICKIE ARMSTRONG

Subscribed and sworn to before me
this 16th day of November, 1992.


Notary Public



EDWARD DAVID, M.D., CHAIRMAN
BANGOR
BRINTON T. DARLINGTON, M.D., SECRETARY
WINTHROP

JOHN B. ANNETT
AUBURN

HARRY W. BENNETT, JR., M.D.
PORTLAND

EMILY S. BRAY, M.D.
RUMFORD

D. JOSHUA CUTLER, M.D.
PORTLAND



STATE OF MAINE

BOARD OF LICENSURE IN MEDICINE
LOCATION: TWO BANGOR STREET
MAILING ADDRESS: STATE HOUSE STATION #137
AUGUSTA, MAINE 04333
TEL (207) 287-3601

ULRICH B. JACOBSON, M.D.
FARMINGDALE

HAROLD L. JONES
AUGUSTA

ELIZABETH G. SERRAGE, M.D.
PORTLAND

SANDRA E. TUTTLE
PORTLAND

RANDAL C. MANNING
EXECUTIVE DIRECTOR

WILLIAM C. McPECK
ASST. EXECUTIVE DIRECTOR

January 12, 1995

John Benson, M.D.
P.O. Box 213
Bar Harbor ME 04609

Dear Dr. Benson:

At its meeting on December 14, 1994, the Maine Board of Licensure in Medicine considered your request to have the conditions on your Maine medical license lifted.

After reviewing the information, the Board voted to lift the conditions. I am therefore pleased to report to you that you now have a full, unrestricted, active Maine medical license.

If you have any questions in regards to the Board's action, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William C. McPeck".

William C. McPeck
Assistant Executive Director

WCM:jmm

Exhibit B



MINNESOTA BOARD OF MEDICAL PRACTICE

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538
MN Relay Service for Hearing Impaired (612) 297-5353 or (800) 627-3529

June 17, 1994

John Michael Benson, M.D.
PO Box 6113
Bar Harbor, ME 04609

RE: Minnesota Medical License Number 23,160

Dear Dr. Benson:

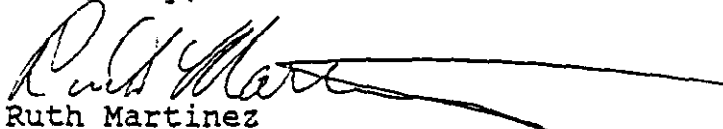
The Board has determined that you have satisfactorily completed all terms and conditions of your November 14, 1992 Stipulation and Order.

On May 14, 1994, the Board approved your application for an unrestricted Minnesota medical license. As of May 14, 1994, you are licensed to practice in Minnesota without restrictions, limitations, or conditions.

This letter is part of your Stipulation and Order file with the Board of Medical Practice, and will be made available to the public upon request.

If you have any questions regarding your Minnesota medical license, please contact the Board office.

Sincerely,


Ruth Martinez
Medical Regulations Analyst

rm

Exhibit C

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	(94 MED 152, 94 MED 191)
JOHN BENSON, M.D.,	:	
RESPONDENT.	:	

It is hereby stipulated between the Respondent, John Benson, M.D , personally and by his attorney, Kenneth Lehman, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. John Benson, P.O. Box 141, Blue Hill, Maine 04614, is duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin and that such license bears number 29702 and was granted on August 25, 1988.
2. A formal disciplinary proceeding was commenced and complaint was filed against and duly served upon Respondent on March 31, 1995.
3. Respondent has read the Complaint and understands the nature of the allegations against him.
4. Respondent is aware of and understands each of the Respondent's rights including the right to a hearing on the allegations against him at which time the state has the burden of proving these allegations by preponderance of the evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decisions and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for rehearing; and all the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.
5. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph four above.
6. The Division of Enforcement recommends that the Wisconsin Medical Examining Board adopt this stipulation and issue the attached Final Decision and Order in resolution of this matter.
7. For the purpose of this Stipulation only, Respondent voluntarily agrees to entry of the attached Final Decision and Order by the Medical Examining Board.
8. Violation of the terms and conditions specified in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Medical Examining Board.

9. The parties to this Stipulation understand that the Department of Regulation and Licensing, Division of Enforcement will take no further action against Respondent's license based on the allegations contained in the Complaint unless Respondent violates the terms and conditions of this Stipulation and Final Decision and Order in which event the Department may reinstate the Complaint and reinstitute proceedings against Respondent.

10. This agreement in no way prohibits the Medical Examining Board from any action against Respondent based on acts not alleged in the present Complaint which might be violative of the Wisconsin Medical Examining Board statutes or rules.

11. The parties agree to waive the Proposed Decision of the Administrative Law Judge and submit this Stipulation directly to the Medical Examining Board. All parties agree that counsel for the parties and the board advisor assigned to this case, may appear before the Board in open session to argue on behalf of acceptance of this Stipulation.

12. This Stipulation and Final Decision and Order, if adopted and entered by the Medical Examining Board, shall become effective on the date of signing.

13. In the event any term or condition of this Stipulation and Final Decision and Order is not accepted or entered by the Medical Examining Board, then no term of this Stipulation and Final Decision and Order shall be binding in any manner on any party to this Stipulation.

August 24, 1995
Date

Kenneth Lehman
Kenneth Lehman
Attorney for Respondent (Admitted only in New York and Maine) KDL

August 29, 1995
Date

Pamela Stach
Pamela Stach
Attorney for Complainant
Department of Regulation and Licensing
Division of Enforcement

I, John Benson, M.D., Respondent herein, having read the above Stipulation and attached Final Decision and Order and having discussed the contents with my attorney, do hereby, knowingly and voluntarily enter into this Stipulation.

8/23/95
Date

John Benson, M.D.
John Benson, M.D.
Respondent

PMS:lmf
ATY-BLG1528

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

SEPTEMBER 28, 1995.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)